

109TH CONGRESS
2D SESSION

S. 2610

To enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2006

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS FROM NUCLEAR WASTE POLICY**

4 **ACT OF 1982.**

5 In this Act, the terms “Commission”, “disposal”,
6 “high-level radioactive waste”, “repository”, “Secretary”,
7 “State”, “spent nuclear fuel”, and “Yucca Mountain site”
8 have the meanings given those terms in section 2 of the
9 Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

1 **SEC. 2. APPLICATION PROCEDURES AND INFRASTRUCTURE**
 2 **ACTIVITIES.**

3 (a) APPLICATION.—Section 114(b) of the Nuclear
 4 Waste Policy Act of 1982 (42 U.S.C. 10134(b)) is amend-
 5 ed—

6 (1) by striking “If the President” and inserting
 7 the following:

8 “(1) IN GENERAL.—If the President”; and

9 (2) by adding at the end the following

10 “(2) REQUIRED INFORMATION.—An application
 11 for construction authorization shall not be required
 12 to contain information relating to any surface facil-
 13 ity other than surface facilities necessary for initial
 14 operation of the repository.”.

15 (b) APPLICATION PROCEDURES AND INFRASTRUC-
 16 TURE ACTIVITIES.—Section 114(d) of the Nuclear Waste
 17 Policy Act of 1982 (42 U.S.C. 10134(d)) is amended—

18 (1) in the first sentence, by striking “The Com-
 19 mission shall consider” and inserting the following:

20 “(1) IN GENERAL.—The Commission shall con-
 21 sider”;

22 (2) by striking the last 2 sentences; and

23 (3) by inserting after paragraph (1) (as des-
 24 ignated by paragraph (1)) the following:

25 “(2) AMENDMENTS TO APPLICATION FOR CON-
 26 STRUCTION AUTHORIZATION.—

1 “(A) IN GENERAL.—If the Commission ap-
2 proves an application for construction author-
3 ization and the Secretary submits an applica-
4 tion to amend the authorization to obtain per-
5 mission to receive and possess spent nuclear
6 fuel and high-level radioactive waste, or to un-
7 dertake any other action concerning the reposi-
8 tory, the Commission shall consider the applica-
9 tion using expedited, informal procedures, in-
10 cluding discovery procedures that minimize the
11 burden on the parties to produce documents
12 that the Commission does not need to render a
13 decision on an action under this section.

14 “(B) FINAL DECISION.—The Commission
15 shall issue a final decision on whether to grant
16 permission to receive and possess spent nuclear
17 fuel and high-level radioactive waste, or on any
18 other application, by the date that is 1 year
19 after the date of submission of the application,
20 except that the Commission may extend that
21 deadline by not more than 180 days if, not less
22 than 30 days before the deadline, the Commis-
23 sion complies with the reporting requirements
24 under subsection (e)(2).

25 “(3) INFRASTRUCTURE ACTIVITIES.—

“(A) IN GENERAL.—At any time before or after the Commission issues a final decision on an application from the Secretary for construction authorization under this subsection, the Secretary may undertake infrastructure activities that the Secretary determines to be necessary or appropriate to support construction or operation of a repository at the Yucca Mountain site or transportation to the Yucca Mountain site of spent nuclear fuel and high level radioactive waste, including infrastructure activities such as—

“(i) safety upgrades;

“(ii) site preparation;

“(iii) the construction of a rail line to connect the Yucca Mountain site with the national rail network, including any facilities to facilitate rail operations; and

“(iv) construction, upgrade, acquisition, or operation of electrical grids or facilities, other utilities, communication facilities, access roads, rail lines, and non-nuclear support facilities.

“(B) COMPLIANCE.—

1 “(i) IN GENERAL.—The Secretary
2 shall comply with all applicable require-
3 ments under the National Environmental
4 Policy Act of 1969 (42 U.S.C. 4321 et
5 seq.) with respect to an infrastructure ac-
6 tivity undertaken under this paragraph.

7 “(ii) EIS.—If the Secretary deter-
8 mines that an environmental impact state-
9 ment or similar analysis under the Na-
10 tional Environmental Policy Act of 1969 is
11 required in connection with an infrastruc-
12 ture activity undertaken under this para-
13 graph, the Secretary shall not be required
14 to consider the need for the action, alter-
15 native actions, or a no-action alternative.

16 “(iii) OTHER AGENCIES.—

17 “(I) IN GENERAL.—To the extent
18 that a Federal agency is required to
19 consider the potential environmental
20 impact of an infrastructure activity
21 undertaken under this paragraph, the
22 Federal agency shall adopt, to the
23 maximum extent practicable, an envi-
24 ronmental impact statement or similar

analysis prepared under this paragraph without further action.

“(II) EFFECT OF ADOPTION OF STATEMENT.—Adoption of an environmental impact statement or similar analysis described in subclause (I) shall be considered to satisfy the responsibilities of the adopting agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and no further action for the activity covered by the statement or analysis shall be required by the agency.

“(C) DENIALS OF AUTHORIZATION.—The Commission may not deny construction authorization, permission to receive and possess spent nuclear fuel or high-level radioactive waste, or any other action concerning the repository on the ground that the Secretary undertook an infrastructure activity under this paragraph.”.

(c) CONNECTED ACTIONS.—Section 114(f)(6) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)(6)) is amended—

(1) by striking “or”; and

1 (2) by inserting before the period at the end the
 2 following: “, or an action connected or otherwise re-
 3 lating to the repository, to the extent the action is
 4 undertaken outside the geologic repository oper-
 5 ations area and does not require a license from the
 6 Commission”.

7 (d) EXPEDITED AUTHORIZATIONS.—Section 120 of
 8 the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10140)
 9 is amended—

10 (1) in subsection (a)(1)—

11 (A) in the first sentence, by inserting “, or
 12 the conduct of an infrastructure activity,” after
 13 “repository”;

14 (B) by inserting “, State, local, or tribal”
 15 after “Federal” each place it appears; and

16 (C) in the second sentence, by striking “re-
 17 positories” and inserting “a repository or infra-
 18 structure activity”;

19 (2) in subsection (b), by striking “, and may in-
 20 clude terms and conditions permitted by law”; and

21 (3) by adding at the end the following:

22 “(c) FAILURE TO GRANT AUTHORIZATION.—An
 23 agency or officer that fails to grant authorization by the
 24 date that is 1 year after the date of receipt of an applica-
 25 tion or request from the Secretary subject to subsection

1 (a) shall submit to Congress a written report that explains
 2 the reason for not meeting that deadline or rejecting the
 3 application or request.

4 “(d) TREATMENT OF ACTIONS.—For the purpose of
 5 applying any Federal, State, local, or tribal law or require-
 6 ment, the taking of an action relating to a repository or
 7 an infrastructure activity shall be considered to be—

8 “(1) beneficial, and not detrimental, to the pub-
 9 lic interest and interstate commerce; and

10 “(2) consistent with the public convenience and
 11 necessity.”.

12 **SEC. 3. REGULATORY REQUIREMENTS.**

13 (a) MATERIAL REQUIREMENTS.—Notwithstanding
 14 any other provision of law, no Federal, State, interstate,
 15 or local requirement, either substantive or procedural, that
 16 is referred to in section 6001(a) of the Solid Waste Dis-
 17 posal Act (42 U.S.C. 6961(a)), applies to—

18 (1) any material owned by the Secretary, if the
 19 material is transported or stored in a package, cask,
 20 or other container that the Commission has certified
 21 for transportation or storage of that type of mate-
 22 rial; or

23 (2) any material located at the Yucca Mountain
 24 site for disposal, if the management and disposal of

1 the material is subject to a license issued by the
2 Commission.

3 (b) PERMITS.—

4 (1) IN GENERAL.—The Environmental Protec-
5 tion Agency shall be the permitting agency for pur-
6 poses of issuing, administering, or enforcing any new
7 or existing air quality permit or requirement applica-
8 ble to a Federal facility that is subject to the Nu-
9 clear Waste Policy Act of 1982 (42 U.S.C. 10101 et
10 seq.).

11 (2) STATE AND LOCAL ACTIVITY.—A State or
12 unit of local government shall not issue, administer,
13 or enforce a new or existing air quality permit or re-
14 quirement affecting a Federal facility or activity that
15 is subject to the Nuclear Waste Policy Act of 1982
16 (42 U.S.C. 10101 et seq.).

17 **SEC. 4. CONFIDENCE IN AVAILABILITY OF WASTE DIS-**
18 **POSAL.**

19 Notwithstanding any other provision of law, in decid-
20 ing whether to permit the construction or operation of a
21 nuclear reactor or any related facilities, the Commission
22 shall deem, without further consideration, that sufficient
23 capacity will be available in a timely manner to dispose
24 of the spent nuclear fuel and high-level radioactive waste

- 1 resulting from the operation of the reactor and related fa-
- 2 cilities.

